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## **DEPARTMENT OF HOMELAND SECURITY**

### **U. S. Customs and Border Protection**

## **DEPARTMENT OF THE TREASURY**

### **19 CFR Parts 10 and 163**

#### **CBP Dec. 12-02**

#### **USCBP-2011-0030**

#### **RIN 1515-AD75**

### **Duty-Free Treatment of Certain Visual and Auditory Materials**

**AGENCIES:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document adopts as a final rule, without change, the proposed amendments to the U.S. Customs and Border Protection (CBP) regulations to permit an applicant to file the documentation required for duty-free treatment of certain visual and auditory materials of an educational, scientific, or cultural character under subheading 9817.00.40, Harmonized Tariff Schedule of the United States (HTSUS), at any time prior to the liquidation of the entry. This change allots more time for the importer to provide the necessary certification documentation to CBP and serves to align the filing of required certification documentation with a change in CBP policy that extended the liquidation cycle for entries in the ordinary course of business from 90 days to 314 days after the date of entry.

**DATES:** Effective date: [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION OF THIS DOCUMENT IN THE **FEDERAL REGISTER**.]

**FOR FURTHER INFORMATION CONTACT:** Robert Dinerstein, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade, (202) 325-0132.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 19, 2011, U.S. Customs and Border Protection (CBP) published in the **Federal Register** (76 FR 51914) a proposal to amend title 19 of the Code of Federal Regulations (19 CFR) regarding the filing of documentation for duty-free treatment of certain visual and auditory materials of an educational, scientific, or cultural character under subheading 9817.00.40, HTSUS. Specifically, CBP proposed amendments to the regulations to provide for the suspension of the liquidation cycle for entries in the ordinary course of business from 90 days to 314 days after the date of entry, or until the required documentation is submitted, whichever occurs first. This proposal also proposed to make a non-substantive change to the listing in the Appendix to Part 163 to reflect the State Department rather than the abolished U.S. Information Agency (USIA).

CBP solicited comments from the public on the proposed rulemaking; however, CBP received no comments in response to its solicitation in 76 FR 51914.

**Conclusion**

In light of the fact that no comments were submitted in response to CBP's solicitation of public comment, CBP has determined to adopt as a final rule the proposed amendments in the Notice of Proposed Rulemaking published in the **Federal Register** (76 FR 51914) on August 19, 2011.

#### **THE REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866**

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires Federal agencies to examine the impact a rule will have on small entities. A small entity may be: a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business under the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). Because these amendments provide more time for an importer to obtain the State Department certificate, CBP certifies under 5 U.S.C. 605(b) that the amendments will not have a significant economic impact on a substantial number of small entities. Further, these amendments do not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

#### **PAPERWORK REDUCTION ACT**

As there are no new collections of information in this document, the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) are inapplicable.

## SIGNING AUTHORITY

This rulemaking is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain CBP revenue functions.

### List of Subjects

#### 19 CFR Part 10

Customs duties and inspection, Entry, Imports, Preference programs, Reporting and recordkeeping requirements, Trade agreements.

#### 19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

## AMENDMENTS TO THE CBP REGULATIONS

For the reasons set forth above, parts 10 and 163 of title 19 of the Code of Federal Regulations (19 CFR parts 10 and 163) are amended as set forth below.

### **PART 10- ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.**

1. The general authority citation for part 10 continues to read and a specific authority is added for § 10.121 as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

\* \* \* \* \*

Section 10.121 also issued under 19 U.S.C. 2501;

\* \* \* \* \*

2. Section 10.121(b) is revised to read as follows:

**§ 10.121 Visual or auditory materials of an educational, scientific, or cultural character.**

\* \* \* \* \*

(b) Articles entered under subheading 9817.00.40, HTSUS, will be released from CBP custody prior to submission of the document required in paragraph (a) of this section only upon the deposit of estimated duties with the port director. Liquidation of an entry which has been released under this procedure will be suspended for a period of 314 days from the date of entry or until the required document is submitted, whichever comes first. In the event that documentation is not submitted before liquidation, the merchandise will be classified and liquidated in the ordinary course, without regard to subheading 9817.00.40, HTSUS.

**PART 163 – RECORDKEEPING**

3. The authority citation for part 163 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

\* \* \* \* \*

**Appendix to Part 163—[Amended]**

4. Section IV is amended by removing the listing “§10.121 Certificate from

USIA for visual/auditory materials” and adding in its place the listing “§10.121

Certificate from the U. S. Department of State for visual/auditory materials”.

David V. Aguilar  
Acting Commissioner  
U.S. Customs and Border Protection

Approved: February 16, 2012

Timothy E. Skud

Deputy Assistant Secretary of the Treasury

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